

D.P.U. 94-79

Application of Boston Edison Company, pursuant to G.L. c. 164 App., §§ 2-1 through 2-10 and 220 C.M.R. §§ 7.00 et seq., for approval by the Department of Public Utilities of the Company's proposed operating budget and applicable monthly surcharge for the Residential Energy Conservation Service program for fiscal year 1995 (July 1, 1994 through June 30, 1995).

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Petitioner

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FOR: DIVISION OF ENERGY

RESOURCES

Intervenor

I. INTRODUCTION

On April 28, 1994, pursuant to G.L. c. 164 App., §§ 2-1 through 2-10 and 220 C.M.R. §§ 7.00 et seq., Boston Edison Company ("BECo" or "Company") filed with the Department of Public Utilities ("Department") a petition for approval by the Department of the Company's proposed operating budget of \$1,563,419, with reconciliations of under- and overcollections from prior fiscal years resulting in a net amount to be collected of \$1,398,745, and applicable monthly surcharge of \$0.17 for the residential energy conservation service ("ECS") program for the fiscal year July 1, 1994 through June 30, 1995 ("FY 1995"). The petition was docketed as D.P.U. 94-79.

Pursuant to notice duly issued, a hearing was held at the offices of the Department on May 23, 1994. The Department granted the petition for leave to intervene filed by the Commonwealth of Massachusetts, Executive Office of Economic Affairs, Division of Energy Resources ("DOER"). No other petitions for leave to intervene were filed.

In support of its petition, the Company sponsored the testimony of one witness: Agnes E. Hagopian, energy conservation services program manager at BECo. DOER sponsored the testimony of Bruce Ledgerwood, program planner for residential conservation programs at DOER. The Company submitted two exhibits and responded to two record requests, the DOER submitted one exhibit, and the Department

submitted six exhibits.

II. STATUTORY HISTORY

In response to the mandates of the National Energy Conservation Policy Act of 1978, the Commonwealth of Massachusetts enacted St. 1980, c. 465, codified as G.L. c. 164 App., §§ 2-1 through 2-10, to establish the ECS program and to require all electric and gas utilities in Massachusetts to offer on-site energy conservation and renewable energy resource services to their customers, thereby encouraging citizens to take steps immediately to improve the energy efficiency of all residential buildings in Massachusetts. G.L. c. 164 App., § 2-2. The statute requires each utility to provide certain energy conservation services through individual or joint efforts in conformance with an overall state plan.¹ Id.

Pursuant to the statute, DOER must adopt a state plan and promulgate regulations necessary to implement that plan. Id., § 2-3(a). Specifically, DOER is responsible for: (1) establishing residential conservation and energy goals ("goals"); (2) establishing ECS program

¹ Prior to 1989, DOER required utilities to offer a commercial energy conservation service program for businesses and other commercial customers; however, DOER eliminated that requirement when the Department required the implementation of demand-side management ("DSM") programs that are geared toward commercial customers. Commonwealth Gas Company, D.P.U. 92-116, at 3 (1992).

guidelines; (3) monitoring the implementation of the program requirements; and (4) overseeing the implementation of the state plan by approving a utility implementation plan ("UIP"). Each utility must submit a UIP to DOER annually.² After a utility receives annual approval of its UIP from DOER, it must submit its proposed ECS program operating budget and proposed ECS surcharge for the upcoming fiscal year to the Department for review. G.L. c. 164 App., § 2-7(b).

² The ECS program consists of a one-to-four unit residential program and a multifamily building program.

III. COMPANY PROPOSAL

A. Establishment of ECS Program Goals

According to DOER, in FY 1995, the ECS program will focus on providing energy conservation services which more fully address the contemporary needs of the customer and which also eliminate duplication of service, thereby reducing the overall program expenses paid by Massachusetts ratepayers (Exh. DOER-1, Att. 1). During FY 1995, DOER stated that there are three ways in which the ECS program will address these goals: (1) appliance efficiency;³ (2) ECS/DSM coordination;⁴ and (3) customer screening procedures.⁵

³ DOER anticipates that FY 1995 will be the first year ECS will educate interested customers on the proportion of the typical household energy bill attributed to household appliances (Exh. DOER-1, Att. 1). This will include usage and conservation information on their current appliances, and when appropriate, will provide information on how to replace appliances with the most efficient alternatives (*id.*). DOER anticipates implementation of this equivalent service in FY 1995, resulting in some cost implications for the FY 1995 budget (*id.*). There are no specific appliance efficiency service goals established for any utility in FY 1995.

⁴ In FY 1995, ECS program providers have been directed by DOER to develop customized ECS UIPs, including audit and equivalent service goals, that take into account the availability of residential DSM programs and the combination of implementation resources (Exh. DOER-1, Att. 1).

⁵ In FY 1995, DOER is directing ECS operators to better screen ECS requests, using available technology and improved procedures, to identify already served customers and to better counsel customers requesting energy conservation assistance so that the customers
(continued...)

In conference with the utilities, DOER established specific goals for the delivery of audits and "equivalent services" which include a variety of follow-up services for customers who have received an audit (id.). The equivalent services are designed to assist customers in pursuing conservation measures recommended as a result of the audit, to provide educational and informational services, and to establish various pilot programs (id.).

For FY 1995, DOER enumerated the "equivalent services" designed to assist customers in pursuing conservation measures recommended pursuant to an audit (id. Att. 1, at Att. II). These include: (1) contractor arranging services ("CAS");⁶ (2) post-installation inspections ("PII") in homes where conservation measures have been installed following an ECS audit;⁷ (3) demonstration material installations

⁵(...continued)

are receiving the most appropriate services for their specific needs (Exh. DOER-1, Att. 1).

⁶ CAS provides technical assistance and guidance to the customer throughout the course of securing and enacting a contract for the installation of energy conservation measures (Exh. DOER-1, Att. 1, at Att. II). CAS includes assisting the customer in selecting a contractor (id.).

⁷ A post-installation inspection is an on-site quality control inspection by a DOER-approved inspector of the installation of an energy conservation measure to determine whether the measure will perform properly to save energy (Exh. DOER-1, Att. 1, at Att. II).

("DMI");⁸ (4) bulk purchasing ("BP") services;⁹ (5) major work order ("MWO") specification¹⁰ development services; and (6) low-cost work order ("LCWO") specification development services¹¹ (id.). A seventh, optional service is the ECS/Weatherization Assistance Program ("WAP") coordination service (id.).

Equivalent services goals are determined as a percentage of audit recipients who should participate in the follow-up of equivalent

⁸ DMI is the installation by the auditor at the time of the site visit of low-cost energy conservation materials, not to exceed \$30 in value (Exh. DOER-1, Att. 1, at Att. II). Materials are installed for the purpose of demonstrating to the customer the proper application and installation of the material (id.). Materials are chosen for installation and demonstration at the discretion of the auditor based on the priority of fuel-blind, specific energy conservation needs of the dwelling as determined during the audit (id.).

⁹ Bulk purchasing provides access to bulk bidding or group purchasing services for customers seeking to purchase energy conservation materials (Exh. DOER-1, Att. 1, at Att. II). Materials available through this service must include all materials of the same type and quality, as demonstrated in the DMI service (id.).

¹⁰ A MWO specification is the preparation of a job specification sheet for a major energy conservation measure(s) recommended during the audit from which: (1) a customer may install the measure(s) personally; (2) a customer may contract for the installation of the measure by a contractor; or (3) a contractor may work to provide the customer with a complete and accurate bid for installation of an energy conservation measure under the utility's CAS program (Exh. DOER-1, Att. 1, at Att. II).

¹¹ A LCWO specification is the preparation of a job specification sheet for purchase of materials for low-cost energy conservation measures such as infiltration, domestic hot water, and lighting measures (Exh. DOER-1, Att. 1, at Att. II).

services. As in prior fiscal years, ECS audit and equivalent services goals do not represent a ceiling to customer participation. See Mass-Save, Inc., D.P.U. 91-28, at 4-5 (1991).

DOER stated that audit goals were established concurrently with equivalent service goals, and were developed in consultation with the ECS Public Advisory Task Force on Covered Utility Program Goals which met in January, 1994 (Exh. DOER-1, at 6, 8). The FY 1995 Goals Task Force reviewed and commented on DOER proposed goals for audit and equivalent service delivery in FY 1995 (id.). The audit and equivalent service goals were evaluated and established using a customized approach which took into account demonstrated equivalent service demand and the anticipated impact of DSM programs on the production of audits and equivalent services (id. at 6, 9).

ECS goals for the delivery of DMI were set at the same level as in FY 1994 for each utility (id. at 9). In some cases, DSM general use, domestic hot water, and/or air infiltration mitigation installations cover some DMI installation opportunities for low-cost, do-it-yourself measures (id.). The effect has been a lowering of the average cost of DMI for the utility's ECS program without a change in the participation rate for DMI (id.). The goals for LCWO were also set at the same level as in FY 1994 for each utility (id.).

Demand for MWO and BP equivalent services have varied greatly

among program providers due to the availability of DSM programs, and the degree to which those DSM programs offer services that were previously not offered through ECS (id.). Therefore, FY 1995 goals for these equivalent services vary widely among program providers (id.).

The FY 1995 equivalent services goal setting process for CAS and PII varied significantly from the FY 1994 process (id.). Based on a review of demonstrated demand for these services in FY 1994, and on discussions with ECS program providers, DOER determined that demand for CAS and PII services through ECS may be limited in areas where DSM programs are offering customer assistance with contracting for major conservation measures (id.). Consequently, for FY 1995, program providers have been allowed to suspend the equivalent service goal for those services where the utility's DSM program was providing a comparable service (id. at 9-10). However, the program operator must maintain the capacity to provide CAS and/or PII for those customers who do not qualify for, or do not wish to participate in, the DSM program (id.).

Participants in the optional ECS/WAP program met with participating WAP agencies to discuss proposed service goals for FY 1995 (id. at 11). These goals are based on current service delivery levels and the number of clients each WAP agency will be able to serve in FY 1995 (id.).

DOER established the goals for the ECS multifamily building ("MFB") audit providers in light of recent demand levels experienced in the respective company's service areas (id.). MFB providers were also invited to devote, within reasonable budget limitations, MFB program resources to provision of the following energy conservation services: (1) additional presentations of audit results to decision makers; (2) counseling for audited customers in contractor selection, location of equipment and materials and securing of financial resources; and (3) training workshops in energy management systems (id. at 11-12).

B. Audit and Equivalent Service Goals

BECo participated with DOER in goal-setting for FY 1995 and stated that its UIP for FY 1995 was approved by DOER (Exhs. BE-1, at 3; BE-2, App. § V-1; DOER-1, at 3). DOER, in consultation with the Company, reduced the FY 1995 audit goal to 8000 from the previous program year goal of 9,000 (Exh. DOER-1, at 7). The goal was established in light of three considerations: (1) the decrease in demand for the Company's ECS program; (2) the overlapping of gas DSM programs in the Company's service territory; and (3) the impact of more comprehensive customer screening procedures on ECS program production (id. at 7-8).

DOER, in consultation with the Company, established the equivalent service goal as follows: (1) DMI would be performed for 95

percent of all customers audited; (2) MWO would be performed for 30 percent of all customers audited; (3) LCWO would be performed for 40 percent of all customers audited; (4) BP service would be provided to 7.5 percent of all customers audited; and (5) CAS and PII would be performed for 1 percent of all customers audited (id. Att.1, at Att. I).

The MFB goal for the Company is set at 300 audits

(id.). The Company has elected to participate in the optional WAP service during FY 1995 with a goal of providing 450 ECS/WAP audits (id. at 11).

The proposed budget for each fiscal year for each ECS service provider is based on DOER ECS goals, detailed in the UIP, that specify levels of effort required for each individual utility or group of utilities (id. at 18). DOER stated that it found the Company's proposed budget consistent with the ECS program objectives and the approved UIP (id.).

C. Comparative Analysis

The Company did not provide the Department with any form of an analysis comparing the Company's costs to implement the ECS program with those of other companies as envisioned in Boston Edison Company, 93-90, at 12-13 (1993). The Company stated that it is virtually impossible to compare its ECS expenses against other ECS program provider's expenses, because each company has different ways of budgeting (Tr. at 8). The Company further stated that it met informally with other utility parties on this issue, but that no comparability standard was established.

IV. STANDARD OF REVIEW

In order for the Department to review a utility's proposed ECS program budget, the utility's budget filing must conform to Department regulations set out at 220 C.M.R. §§ 7.00 et seq. It also must meet the filing requirements enumerated in Mass-Save, Inc., D.P.U. 85-189, at 15-16 (1985).

After determining that a utility's ECS program budget filing is complete, the Department must review the proposed budget for reasonableness and consistency with the state plan adopted

by DOER and approve the budget in whole or with modification. G.L. c. 164 App., § 2-7(b).

The Department has stated that, in general, expenses for the ECS program require the same level of justification as other utility operating expenses. Mass-Save, Inc., D.P.U. 1531, at 11-12 (1983).

These expenses must be shown to be prudently incurred and reasonable. Id. The decision-making process in the selection of contractors, the choice of marketing techniques and expenses, and the allowance made for administrative and other operating costs should be documented to demonstrate that the utility has chosen a reasonable means of meeting the program requirements at the lowest cost. Id. The utility should show that a reasonable range of options has been considered before choosing one particular contractor or plan. Id.

Further, the Department has stated that to aid in determining the reasonableness of certain proposed adjustments to test-year operating expenses in rate-case proceedings, all utilities, where possible, must provide comparative analyses of these adjustments to those of other investor-owned utilities in New England. Massachusetts Electric Company, D.P.U. 92-78, at 19-20, 25-26, 30 (1992). While recognizing the obvious differences between a rate-case proceeding and an ECS budget-review proceeding, the Department has found that a comparative analysis technique is a useful tool in determining the reasonableness of certain operating expenses. Boston Edison Company, D.P.U. 93-90, at 10 (1993). Thus, as a means of determining the reasonableness of a given company's ECS operating expenses, a company must compare, where possible, its ECS operating expenses against similar expenses of other companies. The company must then explain and justify any costs to serve its customers which are higher than comparable operating expenses of other companies. The

Department will consider a company's explanations and justifications within the Department's comparative analysis of ECS budgets.

After completing its review of a utility's proposed ECS expenditures for reasonableness, the Department also must review the utility's proposed ECS surcharge by which the utility is entitled to recover the full cost of the ECS program from its customers. As part of this review, the Department must examine any differences between the amounts collected and the amounts expended on the ECS program by the utility during the prior fiscal year and deduct any expenses that it finds to have been unreasonable. G.L. c. 164 App., § 2-7(f). After deducting any unreasonable expenses, the Department must ensure that the net difference is reflected accurately as an adjustment to the utility's proposed ECS surcharge for the upcoming fiscal year. Id.

V. ANALYSIS AND FINDINGS

A. FY 1993 Expenses

In Boston Edison Company, D.P.U. 92-113 (1992), the Department approved a net operating budget of \$1,725,227 for BECo's FY 1993 ECS program. The budget approval was based on a 1-4 Unit Program goal of 8,200 audits, an equivalent services goal of 15,352, and an MFB goal of 440 audits. BECo reported that its actual twelve-month expenditures for FY 1993 were \$1,565,824 (Exh. BE-2, App. § IV, at 2.1). The Company provided a justification for all budget line-items which varied by more than \$2,000 from the budget approved in D.P.U. 92-113 (Exh. BE-2, App. § IV, at 1.17; DPU-RR-1).

Based on our review of the record in this proceeding, the Department finds the

Company's twelve-month expenditures for FY 1993 to be reasonable, and therefore recoverable from its ratepayers.

B. FY 1994 Expenses

In Boston Edison Company, D.P.U. 93-90 (1993), the Department approved a net operating budget of \$1,775,972 for BECo's FY 1994 ECS program. The budget approval was based on a 1-4 Unit Program goal of 9,000 audits, an equivalent services goal of 15,705, and an MFB goal of 375 audits (Exh. BE-2, § II).

Based on nine months of actual operating expenses of \$1,078,938 and three months of estimated operating expenses of \$489,771, BECo projects total expenditures of \$1,568,709 in FY 1994 (id. § III-1.2). The Company further projects that by the end of FY 1994, it will have completed 9,382 audits in the 1-4 Unit Program, provided 17,134 equivalent services, and performed 375 audits in the MFB (id. § II). Thus, the Company projects that in FY 1994 it will exceed its performance goals while underspending its budget.

The Company has provided a complete explanation of its expenditures for the first nine months of FY 1994 (id. App. § V-6.A.11). The Department finds the \$1,078,938 of expenditures in these months to be reasonable, and therefore recoverable from ratepayers. The Department will review the Company's actual expenditures for the final three months of FY 1994 in the next annual budget review.

C. Proposed Budget for FY 1995

BECo has provided documentation showing that DOER has approved all goals and components of the Company's 1-4 Unit and MFB UIPs (Exh. BE-2, § V-1). Furthermore, DOER indicated that the budget is consistent with BECo's approved UIP and program goals for FY 1995

(Exh. DOER-1, at 18). The Department notes that the Company's filing adequately identifies a cost element for each goal and component of its UIP. In addition, the Company has provided an explanation of the budget expenditures, all of which were listed by line-item account (Exh. BE-2, App. § III). The record suggests that the line-item budget expenditures proposed by the Company to meet its FY 1995 goals are reasonable.

With respect to a comparative analysis, the Department finds that devising a standardized method for comparing one utility's ECS program costs against another utility's similar costs is a difficult task. However, the Department anticipated these difficulties when we notified ECS service providers that we would compare, where possible, these types of expenses. The Department fully expected that the analytical techniques required to conduct a comparative analysis would take time to evolve. Therefore, the Department encouraged companies to explain and justify any discrepancies, so that we may take those reasons into consideration during subsequent ECS budget reviews.

In the instant case, the Department finds that the Company did not conduct its own comparative analysis of its FY 1995 ECS expenses versus other ECS provider's similar expenses, and subsequently did not explain any discrepancies it may have found. In addition, the Department finds that the Company did not sufficiently explain its reasons for not doing so. Accordingly, the Department finds that the Company did not facilitate the Department's determination of the reasonableness of the Company's ECS budgets, and therefore did not appropriately comply with the Department's stated intentions set forth in Boston Edison Company, D.P.U. 93-90, at 12-13 (1993). The Department puts BECo on notice that, if the Company continues to disregard our stated intentions in subsequent ECS budget filings, then the Department

may find that certain ECS expenses are not appropriately justified, and may find these expenses to be unreasonable.

Nevertheless, although the Company did not provide the Department with any comparative analysis, the Department determines that the Company's cost-per-audit is \$165.00, and that, in aggregate, the Company's FY 1995 ECS-budgeted expenses appear comparable to those of other ECS providers. Accordingly, based on our review of the record, we find that a net operating budget of \$1,563,419 for FY 1995 is reasonable and that the proposed surcharge of \$0.17 per customer bill is appropriate. The Department will review the actual FY 1995 expenditures in the next annual budget review.

The Department expects that further progress will continue to be made toward establishing other benchmarks for comparability, and encourages all interested parties to continue with this process. The Department takes this opportunity to reaffirm the importance of the establishment of an analytical framework (i.e., benchmarks) for comparing costs. As stated, the most important reason why the Department is pursuing the development of this framework is to facilitate our determination of the reasonableness of an individual company's ECS expenses. In addition, the Department fully expects that when companies analyze their own costs in relation to other companies' similar costs, each company gains a better understanding of how competitively priced their given energy services, including ECS, are. The Department finds that as we move toward a more competitive energy service marketplace, this understanding becomes critical, regardless of whether it is an ECS program, DSM program, or other type of energy service. In addition, the Department expects that with this information, each ECS service provider will have a better basis for making whatever changes are necessary to become more competitively priced in the future.

(e.g., determine whether the ECS service provider is paying competitive prices for contracted services).

VI. ORDER

Accordingly, after due notice, hearing, and consideration, it is

ORDERED: That net operating expenses in the amount of \$1,565,824 are approved for Boston Edison Company for the fiscal year July 1, 1992 through June 30, 1993; and it is

FURTHER ORDERED: That net operating expenses in the amount of \$1,078,938 are approved for the first nine months of the fiscal year July 1, 1993 through June 30, 1994; and it is

FURTHER ORDERED: That a net operating budget in the amount of \$1,563,419 is approved for Boston Edison Company for the fiscal year July 1, 1994 through June 30, 1995; and it is

FURTHER ORDERED: That an Energy Conservation Service surcharge of \$0.17 per customer bill is approved for Boston Edison Company for the fiscal year July 1, 1994 through June 30, 1995; and it is

FURTHER ORDERED: That if Boston Edison Company is overcollecting by more than ten percent by the end of the third quarter of the fiscal year, the Company must refile for an adjustment to, or elimination of, its surcharge.

By Order of the Department,

Kenneth Gordon, Chairman

Barbara Kates-Garnick, Commissioner

Mary Clark Webster, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).